

#### **§ 1304.210**

rights or fencing rights exist and the land is used for agricultural purposes. Fences must have a built-in means for easy pedestrian passage by the public and they must be clearly marked.

#### **§ 1304.210 Grandfathering of pre-existing shoreland uses and structures.**

In order to provide for a smooth transition to new standards, grandfathering provisions shall apply as follows to pre-existing development and shoreland uses established prior to November 1, 1999, which are located along or adjoin TVA-owned access residential shoreland.

(a) Existing shoreline structures (docks, retaining walls, etc.) previously permitted by TVA are grandfathered.

(b) Grandfathered structures may continue to be maintained in accordance with previous permit requirements, and TVA does not require modification to conform to new standards.

(c) If a permitted structure is destroyed by fire or storms, the permit shall be reissued if the replacement facility is rebuilt to specifications originally permitted by TVA.

(d) Vegetation management at grandfathered developments shall be as follows:

(1) Mowing of lawns established on TVA-owned access residential shoreland prior to November 1, 1999, may be continued without regard to whether the lawn uses are authorized by a TVA permit.

(2) At sites where mowing of lawns established prior to November 1, 1999, is not specifically included as an authorized use in an existing permit, TVA will include mowing as a permitted use in the next permit action at that site.

(3) The SMZ is not required where established lawns existed prior to November 1, 1999.

(4) Any additional removal of trees or other vegetation (except for mowing of lawns established prior to November 1, 1999) requires TVA's approval in accordance with §1304.203. Removal of trees greater than three inches in diameter at ground level is not allowed.

#### **18 CFR Ch. XIII (4-1-08 Edition)**

#### **§ 1304.211 Change in ownership of grandfathered structures or alterations.**

(a) When ownership of a permitted structure or other shoreline alteration changes, the new owner shall comply with §1304.10 regarding notice to TVA.

(b) The new owner may, upon application to TVA for a permit, continue to use existing permitted docks and other shoreline alterations pending TVA action on the application.

(c) Subsequent owners are not required to modify to new standards existing shoreline alterations constructed and maintained in accordance with the standards in effect at the time the previous permit was first issued, and they may continue mowing established lawns that existed prior to November 1, 1999.

(d) New owners wishing to continue existing grandfathered activities and structures must:

(1) Maintain existing permitted docks, piers, boathouses, and other shoreline structures in good repair.

(2) Obtain TVA approval for any repairs that would alter the size of the facility, for any new construction, or for removal of trees or other vegetation (except for mowing of lawns established prior to November 1, 1999).

#### **§ 1304.212 Waivers.**

(a) Waivers of standards contained in this subpart may be requested when the following minimum criteria are established:

(1) The property is within a pre-existing development (an area where shoreline development existed prior to November 1, 1999); and

(2) The proposed shoreline alterations are compatible with surrounding permitted structures and uses within the subdivision or, if there is no subdivision, within the immediate vicinity (one-fourth mile radius).

(b) In approving waivers of the standards of this subpart C, TVA will consider the following:

(1) The prevailing permitted practices within the subdivision or immediate vicinity; and

(2) The uses permitted under the guidelines followed by TVA before November 1, 1999.